



Chelan County  
WATER CONSERVANCY BOARD  
Application for Change/Transfer  
Record of Decision

For Ecology Use Only
Received:
Reviewed by: _____
Date Reviewed: _____

**Applicant: Bear Mountain Water District**

**Application Number: CHEL-08-12**

This record of decision was made by a majority of the board at an open public meeting of the Chelan County Water Conservancy Board held **May 10<sup>th</sup>, 2012**.

☒ **Approval:** The Chelan County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on **May 10<sup>th</sup>, 2012** and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Chelan County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on **May 10<sup>th</sup>, 2012** and submits this record of decision to the Department of Ecology for final review.

Signed:

\_\_\_\_\_  
Don Phelps, Chair  
Chelan County Water Conservancy Board

Date: 5-10-12

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

\_\_\_\_\_  
Waikele Frantz, Member  
Chelan County Water Conservancy Board

Date: 5-10-12

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

\_\_\_\_\_  
Karin Whitehall, Member  
Chelan County Water Conservancy Board

Date: 5-10-12

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

\_\_\_\_\_  
(Name), (Title)  
(Board Name) Water Conservancy Board

Date: \_\_\_\_\_

Approve	<input type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

\_\_\_\_\_  
(Name), (Title)  
(Board Name) Water Conservancy Board

Date: \_\_\_\_\_

Approve	<input type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Mailed to the Department of Ecology Central Regional Office of Ecology, via certified mail, and other interested parties on \_\_\_\_\_.

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

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Chelan County  
WATER CONSERVANCY BOARD  
Application for Change/Transfer  
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF  
THE STATE OF WASHINGTON

Report of Examination



☒ Surface Water ☐ Ground Water

DATE APPLICATION RECEIVED 12/15/2008	WATER RIGHT DOCUMENT NUMBER (i.e., claim, permit, certificate, etc.) 9551	WATER RIGHT PRIORITY DATE 6/9/1965	BOARD-ASSIGNED CHANGE APPLICATION NUMBER CHEL 08-12
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NAME Bear Mountain Water District			
ADDRESS (STREET) c/o Mark Peterson; 1227 First Street	(CITY) Wenatchee	(STATE) WA	(ZIP CODE) 98801

Changes Proposed: ☒ Change purpose ☐ Add purpose ☐ Add irrigated acres ☐ Change point of diversion/withdrawal  
☒ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

**SEPA**  
The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: Exempt ☒ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND 0.11	MAXIMUM GAL/MINUTE 49.37	MAXIMUM ACRE-FT/YR 21	TYPE OF USE, PERIOD OF USE 0.01 cfs, 1 acre foot for continuous domestic supply; 0.10 cfs, 20 acre feet for irrigation of 5 acres.				
SOURCE Lake Chelan			TRIBUTARY OF (IF SURFACE WATER) Chelan River				
AT A POINT LOCATED: PARCEL NO. 272208705125	¼ SE	¼ SW	SECTION 8	TOWNSHIP N. 27	RANGE 22E	WRIA 47	COUNTY. Chelan
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED Lot J and the W ½ of Lot K, Plat of Minneapolis Beach, Section 8, all within T. 27 N., R. 22 E.W.M., Chelan County, Washington.							
PARCEL NO.	¼ SE	¼ SW	SECTION 8	TOWNSHIP N. 27	RANGE, 22		

Proposed Use

MAXIMUM CUB FT/ SECOND 0.0877 (BMWD) 0.0223 (Reynolds)	MAXIMUM GAL/MINUTE 39.37 (BMWD) 10 gpm (Reynolds)	MAXIMUM ACRE-FT/YR 20.5 (BMWD) 0.5 (Reynolds)	TYPE OF USE, PERIOD OF USE Continuous Municipal Water Supply. Continuous Domestic Supply and Seasonal Irrigation.				
SOURCE Lake Chelan			TRIBUTARY OF (IF SURFACE WATER) Chelan River				
AT POINTS LOCATED: PARCEL NO. 272208705125 (1: BMWD) 272216220050 (1: BMWD) 292128320155 (2: Reynolds)	¼ SE NW NW	¼ SW NW SW	SECTION 8 16 28	TOWNSHIP N. 27 27 29	RANGE 22 E. 22 E. 21 E.	WRIA 47	COUNTY. Chelan
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED (1) (BMWD): Service area of an approved Bear Mountain Water District water system plan. (2) (Reynolds): Parcel 292128320155 in the NW ¼ of the SW ¼ of Section 28, T. 29 N., R. 21 E.W.M.							
PARCEL NO.	¼	¼	SECTION 7,8,16,17 28, 29	TOWNSHIP N. 27 29	RANGE, 22 E 21 E		



## Board's Decision on the Application

MAXIMUM CUB FT/ SECOND 0.0877 (BMWD) 0.0223 (Reynolds)	MAXIMUM GAL/MINUTE 39.37 (BMWD) 10 gpm (Reynolds)	MAXIMUM ACRE-FT/YR 20.5 (BMWD) 0.5 (Reynolds)	TYPE OF USE, PERIOD OF USE Continuous Municipal Supply. Continuous Domestic Supply and Irrigation.					
Note: The annual consumptive quantity (ACQ) under the BMWD portion of the right shall not exceed 16.2 acre-feet. Note: The annual consumptive quantity (ACQ) under the Reynolds portion of the right shall not exceed 0.5 acre-feet.								
SOURCE Lake Chelan				TRIBUTARY OF (IF SURFACE WATER) Chelan River				
AT POINTS LOCATED: PARCEL NO.		¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
272208705125 (1: BMWD)		SE	SW	8	27	22 E.	47	Chelan
272216220050 (1: BMWD)		NW	NW	16	27	22 E.		
292128320155 (2: Reynolds) 2160 feet north of SW corner of Section 28		NW	SW	28	29	21 E.		
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD								
(1) BMWD: The place of use shall be the service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of expanding the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.  The place of use for the BMWD portion of this water right is expected to conform to any subsequently approved Bear Mountain Water District Water System Plan. Until such approval is obtained, the place of use of this water right shall be confined to the existing approved plan of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006.								
(2) Reynolds: Parcel 292128320155 in the NW ¼ of the SW ¼ of Section 28, and the NE ¼ of the SE ¼ of Section 29, T. 29 N., R. 21 E.W.M., described more specifically as follows:  “Lot 2, Certificate of Exemption 2005-018 filed under Auditor’s File Number 2203177, Chelan, County, Washington. Except therefrom that portion of said lot 2 lying Easterly of the following described line A; Beginning at a brass cap W.P.M.C., said point being on the West line of said section, thence South 72 29’ 35” East a distance of 112.27 feet to the True Point of Beginning for said described Line A; thence South 11 05’ 23” West a distance of 135.24 feet, more or less, to the Northerly right of way for C.R.P. 480, said road being known as South Lake Shore Road, said point being the end of described line A. Line A shall extend northerly to the line of the high water mark.”								
PARCEL NO.		¼	¼	SECTION	TOWNSHIP N.	RANGE,		
Multiple (BMWD)				7,8,16,17	27	22 E		
292128320155 (Reynolds)				28, 29	29	21 E		

### DESCRIPTION OF PROPOSED WORKS

Raw water is pumped from Lake Chelan either to an existing water treatment plant for treatment and distribution in the potable water system or directly to the irrigation system. A schematic of the water system is provided in Figure 1.

### DEVELOPMENT SCHEDULE (BMWD)

BEGIN PROJECT BY THIS DATE: Begun	COMPLETE PROJECT BY THIS DATE: 12/01/2024	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: 12/31/2029
This development schedule was selected for consistency with previous BMWD transfers (e.g. see transfer CS4-09550C, CS4-04590, CS4-22540, etc.) approved by Ecology in 2011 and 2012. This water right transfer will be developed concurrently along with the other rights transferred in BMWD's portfolio of rights.		

### DEVELOPMENT SCHEDULE (Reynolds)

BEGIN PROJECT BY THIS DATE: December 31, 2015	COMPLETE PROJECT BY THIS DATE: December 31, 2016	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: December 31, 2017
The development schedule for Reynolds was selected by the Board to allow time for appropriate county permitting and construction on the bare lot.		

### REPORT

#### BACKGROUND

i) A description of the water right proposed for transfer, including the board-assigned water right change application number, and the board's tentative determination as to the validity and quantification of the right, as well as the historical water use information that was considered by the board

On December 11, 2008 Bear Mountain Water District (BMWD) of Chelan, Washington filed an application for change purpose, place and season of use, and add points of diversion under Water Right Certificate 9551. The application was accepted at an open public meeting on the same date, and the board assigned application number CHEL-08-12. The Board transmitted the change application and relevant attachments to Ecology on December 15, 2008, a copy of which is provided in Appendix A. On December 18, 2011, BMWD amended its application to add municipal use (and retain domestic use), and to add a third point of diversion and new place of use associated with the "Reynolds" property.



**Table 1: Attributes of Certificate 9551 as Currently Documented (see Ecology File in Appendix B)**

Name on certificate, claim, permit: Charles Oliver Clark
Water right document number: Certificate 9551 (S4-*19076CWRIS)
As modified by certificate of change number: N/A
Priority date, first use: June 9, 1965
Water quantities: Qi: 0.11 cfs      Qa: 22 acre-feet
Source: Lake Chelan
Point of diversion/withdrawal: Lot I, Plat of Minneapolis Beach, within Section 8, T. 27 N., R. 22 E.W.M.
Purpose of use: domestic supply and irrigation of 5 acres
Period of use: continuous for domestic supply, not listed for irrigation supply
Place of use: Lot J and the W ½ of Lot K, Plat of Minneapolis Beach, Section 8, all within T. 27 N., R. 22 E.W.M.
Existing provisions: not listed
Previous transfers associated with this water right: none.

This application is the fifth in a series of water transfers filed by BMWD in 2008 in an effort to consolidate its water rights, some of which were acquired from other purveyors like Lakeview Utilities, LLC. For additional background information, please refer to water right transfers for Certificate 5182, 9550, 4590, and 22540 approved by the Chelan Board and Ecology in 2011 and 2012.

BMWD acquired Certificate 9551 by deed on July 25, 2008 (see Appendix C), which is recorded under Chelan County Auditor file number 2296209. As the sole water right owner by deed and as a public utility, the water district may represent the interests of the owners of the proposed place of use. Individual parcel owners did not sign the change application, but based on the exception for public entities identified in Ecology GUID 2040 (Page 3), the Chelan Board concluded that BMWD has an adequate ownership interest to transfer the right.

In December 2011, Lakeview agreed to sell 10 gpm and 0.5 acre-feet of its water right to Tom and Karin Reynolds to serve their undeveloped lot on Lake Chelan, northeast of the current Lakeview service area. The Reynolds signed Change Application CHEL-08-12 on March 20, 2012, which accompanies a republishing of the notice, re-notice to interested parties, and amendment of the change application as the necessary procedural steps to permit this change in the original proposal.

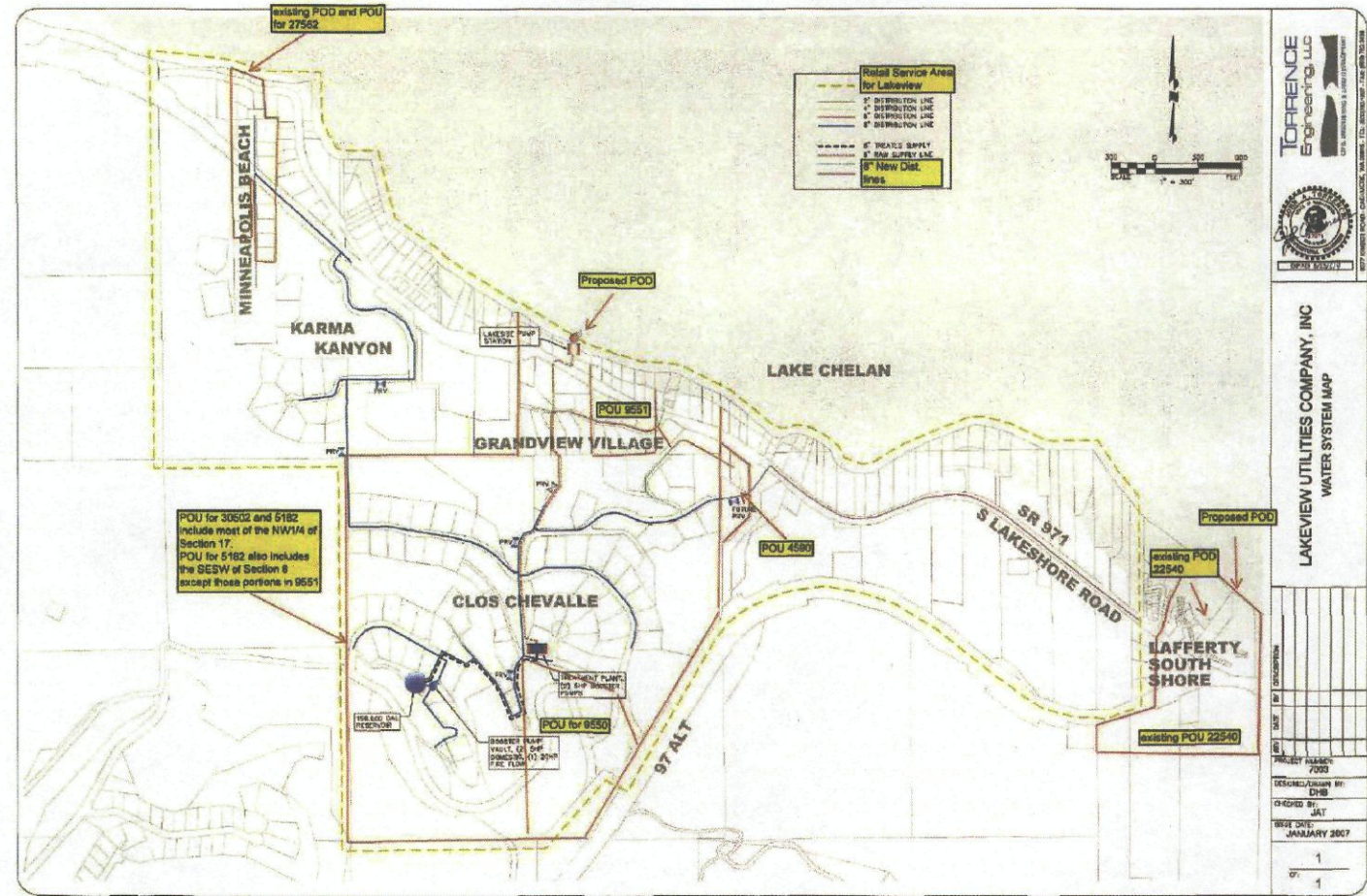
The Lakeview portion of the BMWD water system is composed of both potable and irrigation water systems. Some of the potable water system has been intertied with BMWD's system. BMWD's acquired Certificate 9551 with the intent of integrating it into its water right portfolio, and transitioning the historic agricultural irrigation use to municipal use. Historically the lands within BMWD's service area had supported orchards, which are now transitioning to grapes and residential development. This water right transfer is intended to authorize municipal use, and the development of the right will be in accordance with the definition of a municipal water supply right in RCW 90.03.014(4).

The Lakeview Utilities Company, Inc was initially created to provide municipal water to the Clos CheValle and Grandview subdivisions on the south shore of Lake Chelan. This entity went on to integrate other small Class B and Class A water systems, including irrigation supply, into their operation. BMWD took over the role of overall management with the acquisition of the Lakeview Utility Company's water systems and rights in 2008.

The following figure (Figure 1) from the change file and previous transfers shows the general layout of the water district, the historic point of diversion and place of use for Certificate 9551 and the two proposed diversion points.



Figure 1: Bear Mountain Water District Schematic



For comparison, the Board also provides a screen shot from Ecology’s webmap in Figure 2 showing the existing place of use (red outline) and existing point of diversion (yellow dot) for Certificate 9551. Figure 3 shows the proposed place of use and points of diversion. As shown on Figure 3, the proposed transfer will divide the right into two portion: the “A” portion is the portion being transferred to BMWD, while the “B” portion will be transferred to the Reynolds. A close-up of the Reynolds proposed place of use and point of diversion is shown on Figure 4.

Figure 2: Ecology Webmap Display for Certificate 9551 (Existing Point of Diversion / Place of Use)

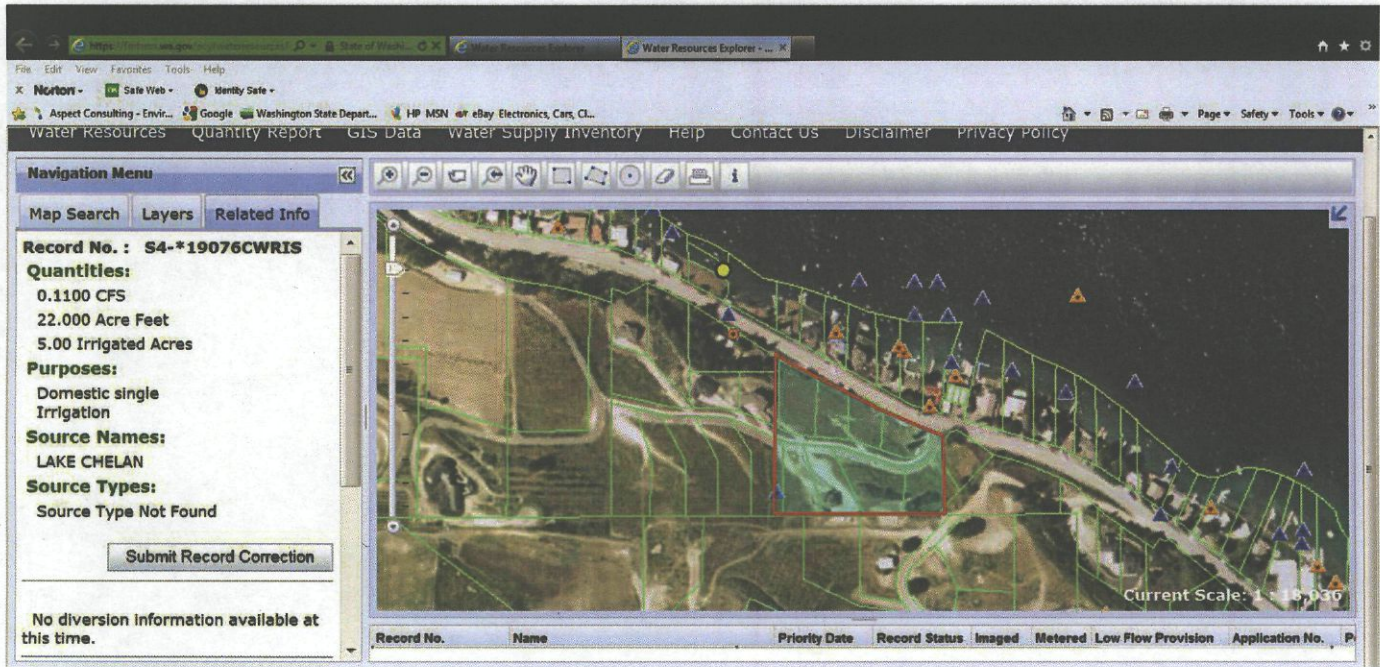




Figure 3: Ecology Webmap Display for Change CS4-09551 (Proposed Points of Diversion / Place of Use)

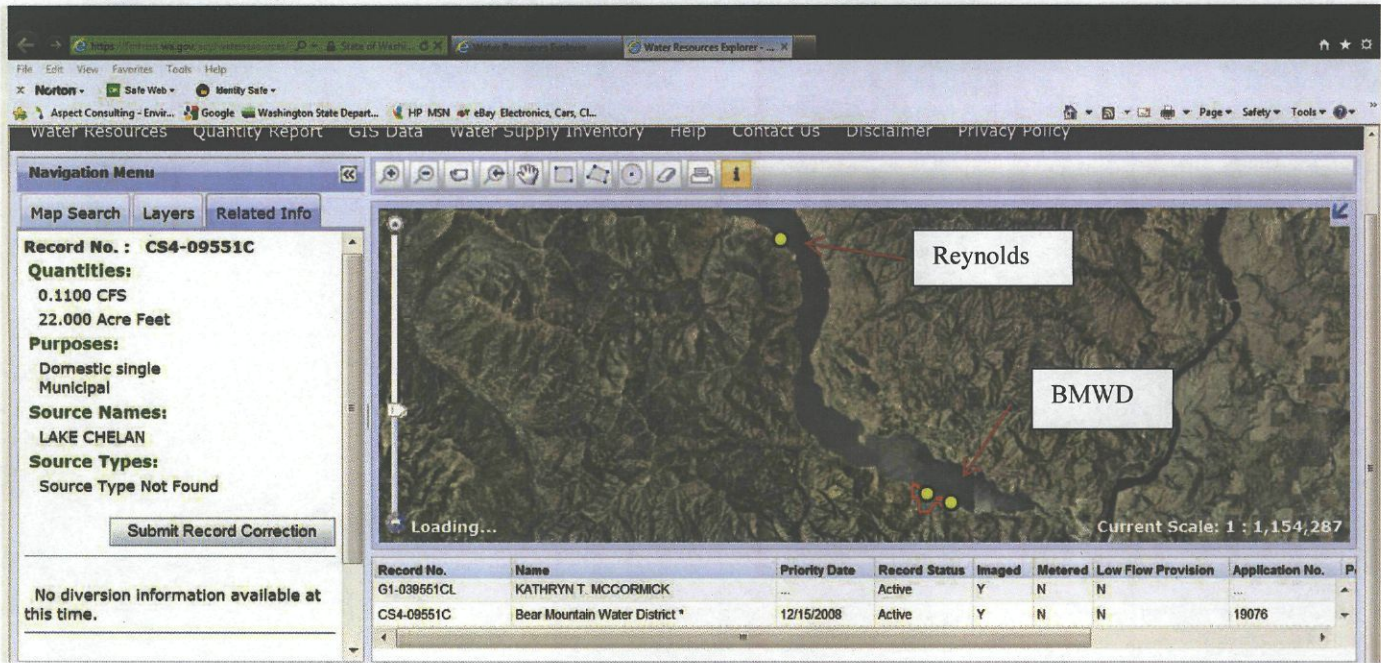
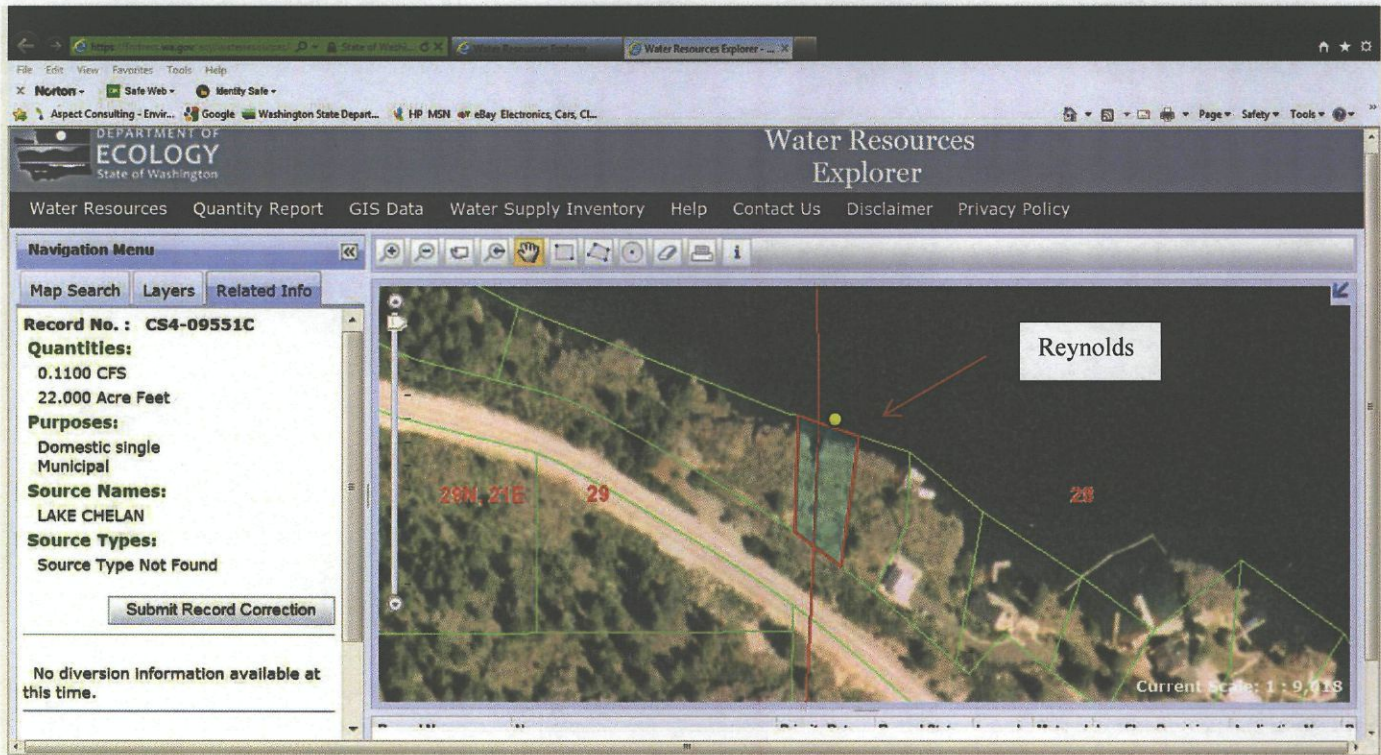


Figure 4: Ecology Webmap Display for Change CS4-09551 (Reynolds Proposed Diversion / Place of Use)



COMMENT AND PROTESTS [See WAC 173-153-130(6)(b)]

Public notice of the application was given in the Wenatchee World on May 18 and May 25, 2010. The protest period ended on June 25, 2010. Notices of the application were also provided to the Washington State Department of Fish and Wildlife (WDFW) and Department of Archeology and Historical Preservation (DAHP) on May 14, 210. There were no protests received during the 30 day protest period.

Pursuant to the change application amendment to incorporate the Reynolds portion of the transfer, all notices were re-published and resent. On January 5, 2012, notice of the amended change details was sent to WDFW, DAHP, the Colville Confederated Tribes, and the Eastern Washington Council of Governments. On January 10 and 17, 2012, the notice was re-published in the Wenatchee World. There were no protests received during the 30 day protest period.

In addition, no oral and written comments were received at an open public meeting of the board or other means as designated by the board. Copies of all notices are provided in Appendix D.

The Board notes that the revised notice to include the Reynolds property identified the place of use by both parcel number 292128320155 and NW ¼ of the SW ¼ of Sec. 28, T. 29 N., R. 21 E.W.M. Once the amendment to the change application was mapped by Ecology (Figure 4) the Board noted that a portion of Parcel 292128320155 also lies within the NE ¼ of the SE ¼ of Section 29.

The Board determined that republication of the notice was not necessary to clarify the proposed place of use. It is not necessary to list every parcel or fraction of a quarter-quarter in the notice in order for the proposed place of use to be described adequately for the purpose of informing the public and providing due process. The parcel number listed is accurate, and is readily available from county and Ecology databases. The quarter-quarter listed embodies the majority of the proposed place of use. Moreover, the level of specificity provided for the Reynolds is equal to or superior than that



provided for the other portion of the right ("A" portion to BMWD) which has been accepted by Ecology on previous transfers.

## SEPA

In 2009, Bear Mountain Water District acted as lead agency on a proposal to become a regional water purveyor, modify numerous water rights to accomplish that goal, make land use changes, and upgrade infrastructure. BWMD prepared a checklist and adopted a DNS. The Board and Ecology relied on this SEPA determination for previous changes associated with this project (Certificate 5182, 4590 and 9550). A copy of the SEPA checklist and DNS was distributed to affected agencies for comment. BMWD considered comments it received, and the DNS became final 14 days after distribution. The Board relied on this SEPA documentation for this project which is materially the same as that represented in the checklist (see Appendix E). The Board determined that no new significant adverse environmental impacts not already contemplated in the original SEPA threshold determination would occur as a result of the change application amendment to include the Reynolds property in the authorization.

**The information or conclusions in this section were authored and/or developed by Dan Haller, Mark Peterson, Don Phelps, Waialele Hampton, and Karin Whitehall.**

## INVESTIGATION [See WAC 173-153-130(6)(c)]

### *Ecology Water Right Files*

The earliest account of historic water use is found in Ecology's water right file for Certificate 9551. The file describes that the 5 acres of orchard and 1 home were authorized under Permit 14034 in 1965. The Report of Examination and file materials describes the authorized use as 4 acre-feet per acre for "The Clawson Orchard", along with 2 acre-feet for 1 house. The 5 acres authorized in Permit 14034 were already developed and in production at the time of the application (e.g. application says construction completed, orchard visible in USDA Conservation Plan map in file, and certificate issued 2 months after permit issued). The Report of Examination also describes overlapping Certificate 5182: "the lands to be irrigated are within the area to which Surface Water Certificate #5182 is appurtenant; however, the lands to be irrigated under this application are additional lands and permit when issued will not be of a supplemental nature".

The 5 acres of orchard associated with Certificate 9551 appears to have been continuously irrigated as part of a larger orchard block through the next several decades, with periodic replantings per normal farming practices (see related BMWD transfers on the same large contiguous orchard block, such as Certificate 5182).

In June of 1991 Ecology conducted a site investigation pursuant to applications 30501 and 30502 (also now owned by BWMD) and determined there were 103 acres of existing orchard within the proposed place of use for 30501 and 30502 (see Report of Examination 30501 excerpt).

### Site Inspection

In June of 1991 Gary W. Weston of this office conducted a site inspection to confirm the information supplied on the application form. The site is located about 5 miles west of Chelan on the south shore of Lake Chelan, northwesterly of State Highway 97A in the NW¼ of Section 17, T. 27 N., R. 22 E.W.M.

There is an established orchard of 103 acres on the land described as the place of use. Application No. S4-30502 seeks to add 21.5 more acres of orchard on the described place of use. The instant application No. S4-30501 requests authorization to supply domestic water to up to 70 residential dwellings on non-irrigable lands (for commercial crops) just south of the South Lakeshore Road and at the higher elevations of the land. There are several existing houses and buildings on the site that require domestic water supplies.

As described in previous changes approved by Ecology, this existing orchard was being irrigated by Certificates 5182 (76 acres), 9550 (20 acres), 9551 (5 acres), and 4590 (2.89 acre) which authorized the irrigation of approximately 103 acres combined.

### *Aerial Photo Review*

The contiguous nature of the orchard blocks can be observed by viewing available aerial photographs. For example, Figure 5 from the Certificate 5182 transfer ROE approved by this Board shows a 1998 USGS aerial photograph with BMWD water rights places of use overlain.



Figure 5: 1998 USGS Aerial Photograph



The earliest photo the Board located was from 1990 from GoogleEarth, shown in Figure 6 below, which is roughly contemporaneous with Ecology’s site visit. The photo shows a mix of full-canopied and developing orchard trees, along with a single-residence as described in the water right file. The place of use boundary is as reflected in Ecology’s webmap.

Figure 6: GoogleEarth USGS Aerial Photo from July 20, 1990



Zooming into the Certificate 9551 place of use on the 1998 USGS photo in Figure 5 shows that the orchard block is mature and under typical irrigation similar to the other orchard blocks co-managed by the Lakeview Orchards Company (see Figure 7). As is typical with many irrigation rights, the exact planting of the 5 acre orchard block authorized under Certificate 9551 was done to maximize growing conditions rather than strict



adherence to the authorize place of use. The Board observes a farm road encompassing the entire orchard block (most visible to the north and west) that delineates the actual boundary of this orchard which is 5 acres in size.

**Figure 7: GoogleEarth USGS Aerial Photo from August 2, 1998**



The next photo isn't available until 2005, which is presented in Figure 8. The period from 1998 to 2005 represents the beginning of a change in land use that continues to this day. In 2005, the orchard has been completely removed but for a small windbreak in the SE corner of the place of use, and the one domestic connection demolished to begin the transition to new housing. Although constructed after the July photo, a new house was constructed within the place of use in 2005 based on a review of county assessor's office records<sup>1</sup>.

**Figure 8: GoogleEarth USGS Aerial Photo from July 31, 2005**

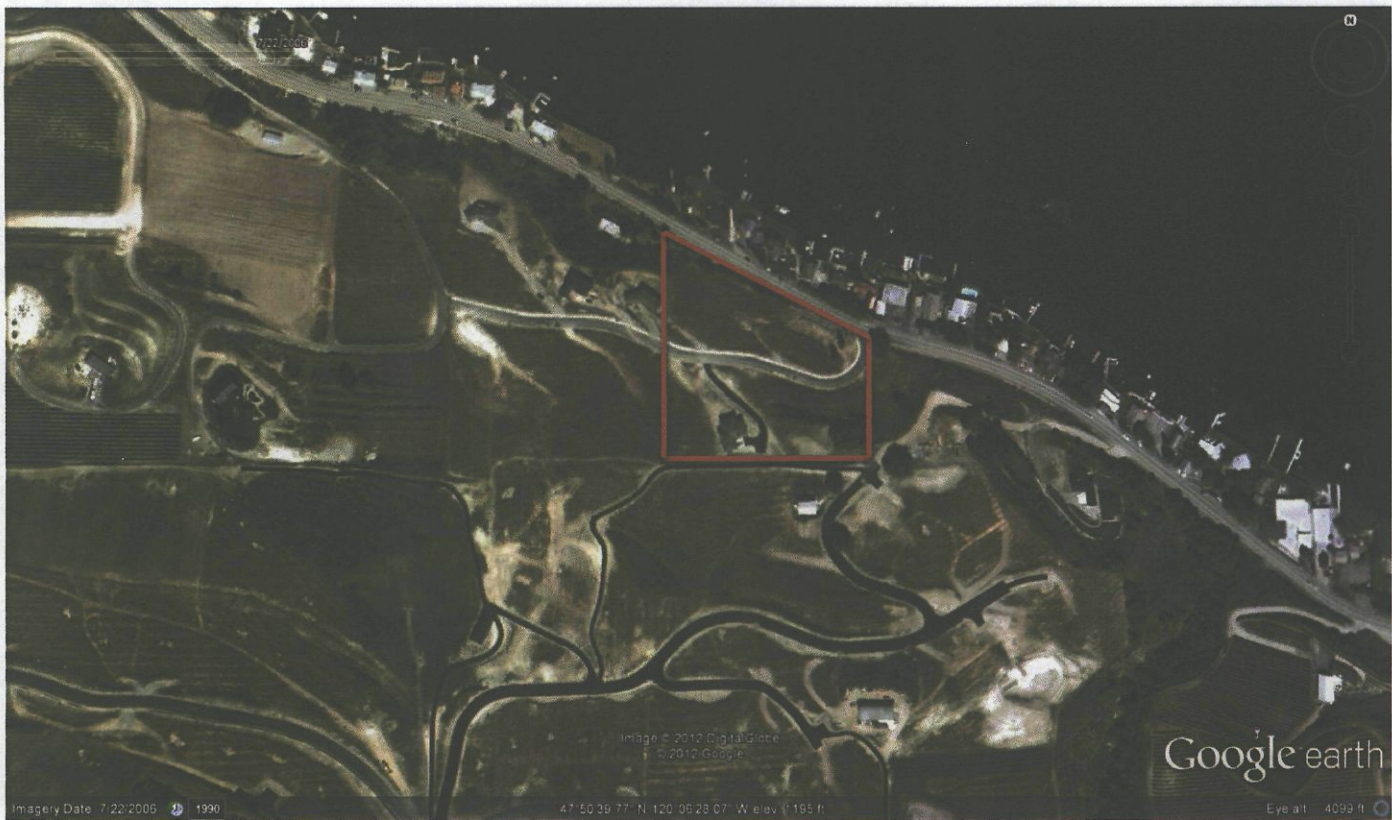


A higher resolution photo is available from 2006 (Figure 9) that shows the Poirier House and driveway from construction the previous year. Similar home construction occurred on the parcels immediately to the west.

<sup>1</sup> As shown in Figure 2, the authorized place of use encompasses 8 full parcels and overlaps several others. The overlap in actual use based on the actual planting of the orchard block occurred primarily on parcels to the west. According to the County Assessor, in 2005 a 4,238 square foot house was constructed on Parcel 272208580040 currently owned by Larry and Connie Poirier. This house is visible in later aerial photos.  
040-106(0505)



Figure 9: GoogleEarth USGS Aerial Photo from July 22, 2006



The final photo reviewed by the Board (Figure 10) is from 2009, which shows the same house, but now with some landscaping around the home and along the driveway, and the irrigated windbreak in the SE corner. The remaining parcels are still open space.

Figure 10: GoogleEarth USGS Aerial Photo from September 10, 2009

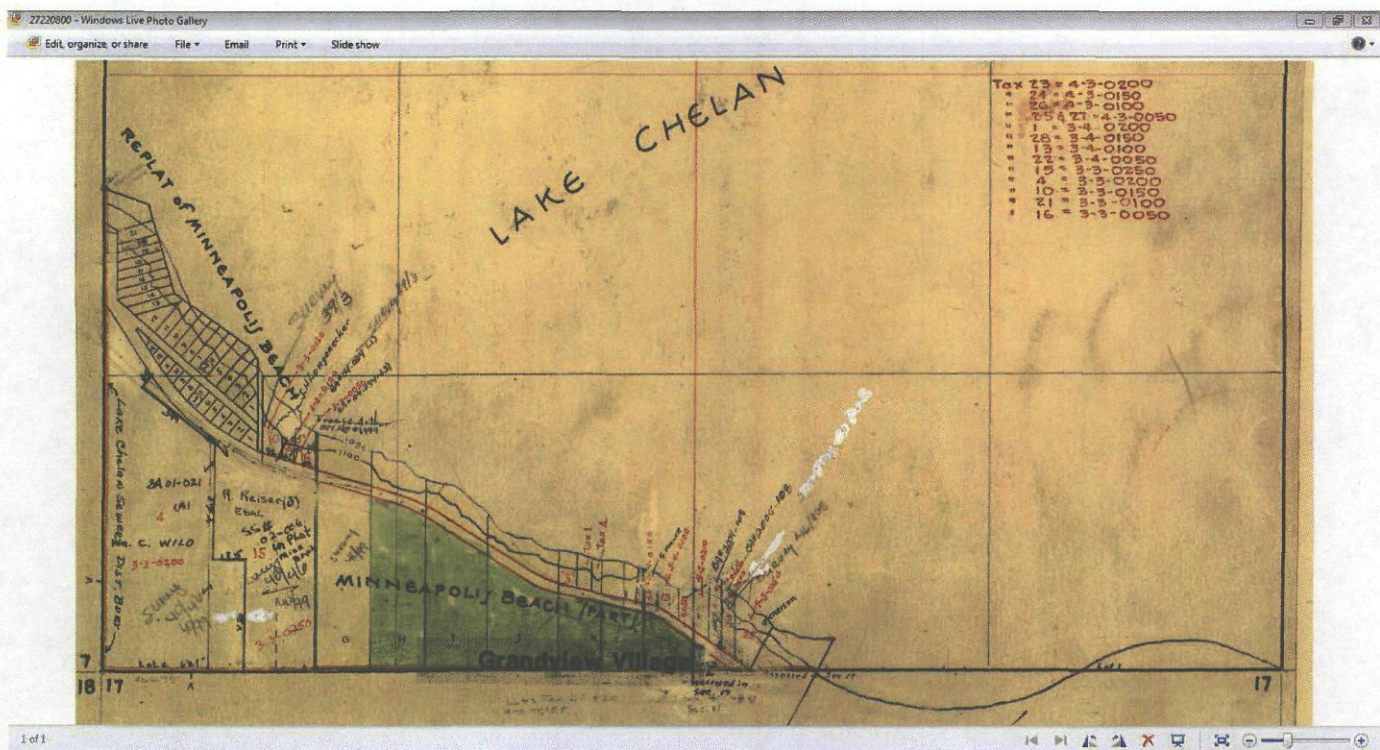


*Review of County Records*

The Board investigated maps and parcel data from Chelan County. As shown in Figure 2, there are approximately 8 full parcels within the authorized place of use, ranging in size from approximately 1/3<sup>rd</sup> an acre to 2/3<sup>rd</sup>s an acre. The only home constructed since removal of the orchard was in 2005 (Poirier). Historic section maps are also available from the County. Figure 11 shows a plat map for the Minneapolis Beach plat, including Lots J and K, the original authorized place of use. This map compares well with the map in Ecology's water right file for Certificate 9551 showing the plat of Minneapolis Beach, the Clawson Orchard land holdings.



Figure 11: County Plat Map for Minneapolis Beach, Section 8, T. 27 N., R. 22 E.W.M.



Site Visits

Board Chair Don Phelps conducted a site investigation on March 3, 2009 for this application and the other four Bear Mountain Water District changes that are part of this project (see SEPA description in Appendix E). Don toured the existing and proposed points of diversion and place of use. Since the orchard has been removed and much of the land transitioned into housing, the Board relied on remote sensing data for this Report of Examination.

Board Alternate Karin Whitehall completed a second site visit on April 11, 2012 to familiarize herself with the proposed transfer and so she could act on the change application per RCW 90.80.070.

TENTATIVE DETERMINATION

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report.

Based on this history of water use described herein, the Board finds:

- There has been continuous use of the right for 5 acres of irrigation and domestic use for 1 home from before Certificate 9551 issued in 1966 until the spring of 2005 when the trees were removed and the house demolished.
- From 2005 to present the extent of the Certificate 9551 has consisted of domestic use for one house and associated landscaping/irrigation. Partial nonuse of the water right is evident from 2005 to present.

Because the non-use period is short (2005 to 2012, or 8 years) and because there has been no intent to abandon the right identified during the Board’s review of the file, observable actions, site visit and interviews with the applicant, the Board must consider whether relinquishment of the unused portion has occurred. This will help the Board determine the appropriate 5 year period to consider when tentatively determining the extent and validity of the water right. The Board conducted an investigation of potential relinquishment exceptions under RCW 90.14.140.

Previous BMWD transfers (Certificate 5182, 4590, and 9550) within the last 2 years have documented the existence of a determined future development (DFD) for those water rights. The applicant asserts that the same DFD applies to Certificate 9551. RCW 90.14.140(2)(c) states that there shall be no relinquishment of a water right if it is claimed for a determined future development. Ecology’s POL 1280 outlines a number of case-specific factors that Ecology considers when evaluating whether this relinquishment exemption is applicable:

1. The project must be sufficiently complex as to require more than 5 years to complete.
2. The plan must be determined and fixed within five years of the last beneficial use of the water.
3. The party exercising the plan must have equity in the water right.
4. The plan must remain fixed and affirmative steps must be taken to implement the plan within 15 years.



The asserted DFD is for BMWD to become a regional water utility, use its water rights and those it acquires to form a water district, and transition the historic orchard uses to municipal uses and grape irrigation/landscaping consistent with the wine theme emerging in this area of Lake Chelan. The following evidence was submitted in support of the DFD for the transfers involving Certificate 5182, 4590, and 9550 and addressing the 4 elements above in Ecology POL 1280. These facts are similarly compelling for Certificate 9551.

1. BMWD acquired Certificate 9551 by deed on July 25, 2008 (see Appendix C).
2. BMWD acquired Lakeview Utilities water system infrastructure and easements necessary to run the system (see Water System Transfer Agreement, Appendix C).
3. BMWD filed the subject change application on December 11, 2008 (see Appendix A).
4. BMWD filed and received approval for other change applications consistent with the asserted DFD (see Certificate 5182, 4590, and 9550 transfers).
5. Doug Wilcox, principle with Lakeview Utilities and employee of BMWD provided a Declaration in support of the DFD (see Appendix F).
6. BMWD acted as lead agency and made a SEPA determination for the project to become a regional water purveyor, including Certificates 5182, 4590, 9550, and 9551 (see Appendix G).
7. The project involves construction of numerous homes and integrating separate water systems which is sufficiently complex to require more than 5 years to complete.
8. BMWD's actions have been consistent with a fixed plan<sup>2</sup> and have not attempted to alter or change plans.
9. BMWD has made substantive progress towards implementing the plan with diligence, including making a physical intertie with Lakeview, filing and working on a change application, and developing and implementing an administrative process for billing Lakeview for use of the intertie.

Based on a DFD in 2008 consistent with the transfers for Certificate 5182, 4590, and 9550, the extent and validity of the water right Certificate 9551 would be based on the highest use from the period from 2003 to 2007. Based on the beneficial use history, this would be consistent with use in 2003 of 5 acres of irrigation and one house.

Evident in the photos (e.g. see Figure 7) and persisting in the target year of the tentative determination (2003), the Board notes that a small defacto change in place of use for the 5 acres of irrigation appears to have occurred. Consistent with Ecology Policy 1120 on Tentative Determinations:

*"When evaluating unauthorized changes to water rights, the department generally considers beneficial use to be the measure of the right, even if some attributes of the right may not be consistent with the current authorization."*

In this case, the Board notes finds that the record supports the irrigation of 5 acres under the right, albeit slightly outside the authorized place of use. The Board relied on Ecology's site visit from 1991, along with the aerial photo review, as corroborating evidence.

Inasmuch as neither metered water use or power use data is available from 2003, the Board relied on the data from the Washington Irrigation Guide for estimates of crop irrigation requirement for the 5 acres of irrigation. In its review of the aerial photographs, file review, and applicant interview, the Board identified 5 acres of apples with cover crop as appropriate for determining the extent of the irrigation right. The Board notes that the overall impression of the series of photos is an actively managed and replanted orchard over time. Relatively bare spots or small canopied trees in one area are replaced with mature trees in other photos. Additionally, the Board relied considered Ecology's allocation for domestic use and appropriate domestic use rates. This is the same approach approved by Ecology in the previous BMWD transfers submitted by the Board in 2011. The following calculations were used:

Chelan WIG crop irrigation requirement, apples with cover: 34.1 inches

Overall efficiency: 71%<sup>3</sup>

Extent (irrigation) =  $(34.1 \text{ inches} * 5 \text{ acres}) / (12 * 0.71) = 20 \text{ acre-feet}$

Certificate 9551 authorized 2 acre-feet for domestic use, which was used by a single residence throughout the life of the right. This included both indoor use and a small amount of associated lawn irrigation (e.g. see Figure 7 for small non-treed irrigated area immediately around the house). The 2 acre-feet of water allocated by Ecology equates to approximately 1,700 gpd, which is high, but not unreasonable for rural domestic use (in-city urban rates would be expected to be much lower). This rate is approximately one-third of the allowance under a permit exempt withdrawal (5,000 gpd). This original allocation is sufficient to support reasonable in-door use and a few tenths of

<sup>2</sup> The Board notes that the Reynolds portion of this transfer is not subject to the BMWD DFD, having originated in 2011. Rather, this will be allocated from the perfected portion of the right consistent with an approach agreed to with the settlement of the appeal on Certificate 5182.

<sup>3</sup> In previous BMWD transfers because actual system specifics are no longer available (orchard removed), the Board selected a 70% efficiency estimate. The Board based this judgment on a review of irrigation methods (undertree sprinklers and lawn sprinklers) compared to Ecology GUID 1210, consideration of system site specifics (long transmission lines and variable topography affecting uniformity of applied water), and consistency with previous transfers for similar systems. In this case, such an assumption is close to that authorized in the original transfer, but a 71% efficiency is necessary to avoid authorizing more water in this change than in the original water right.



an acre of lawn, and was a common practice allocation by Ecology at the time. The Board believes that such use is likely higher than actual beneficial use in this instance, and that a 1 acre-foot allocation is more reasonable. Domestic use in the range of 1 acre-foot persisted after demolishing the existing home in 2005, even though landscaping area appears somewhat reduced, as the new home size (and associated occupancy and water use) has increased significantly (e.g. 4,238 sq. ft house).

The Board agrees with Ecology's initial allocation of water of 22 acre-feet and that that quantity was perfected on or prior to 1966l. The Board believes that at least 21 acre-feet persisted through 2005. From 2005 to present day, the extent of water use was on the order of 1 acre-foot and the unused portion of 20 acre-feet is subject to a DFD.

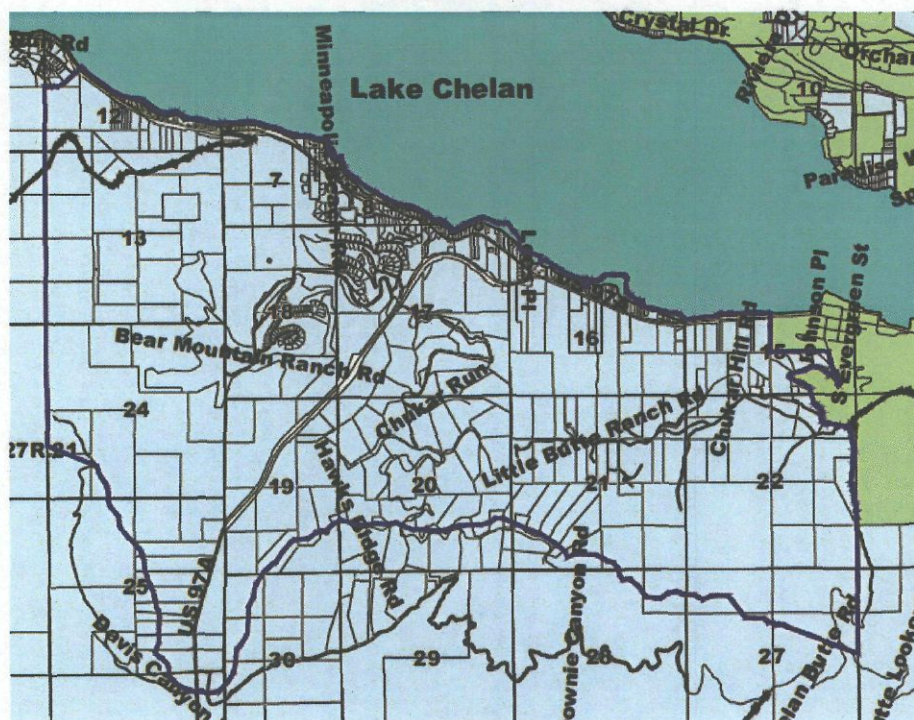
Lakeview / BMWD is transferring approximately 0.5 acre-feet of water to Tom and Karin Reynolds and their parcel up-lake. That 0.5 acre-feet will come out of the existing domestic use that has been perfected and remained in use (and not subject to the DFD and its need to remain fixed from 2008 to completion). BMWD manages several other water rights that have been transferred already that can now serve the Poirier house, including Certificate 5182, 9550, and 4590. A municipal water supplier can manage water rights in its common service area to best meet its customer needs. Water rights are commonly added (and in this case subtracted) from a municipal water supplier's portfolio which, along with other common infrastructure changes like adding wells or new transmission lines, may change which houses are served by which water rights. Such a practice is not speculative, but rather just normal operation of a municipal water system. While adding rights to municipalities is more common than selling them, there is no impairment that will result from reallocating this small use to another of the panoply of water rights managed by BMWD. The Board notes that this is analogous to BMWD's and Ecology's handling of the sale of small portions of Certificate 5182 to the "Coxes" and "Kellys" in 2011 on that water right transfer.

Certificate 9551 authorized a total of 0.1 cfs for irrigation of 5 acres and 0.01 cfs for domestic supply. The instantaneous rate for irrigation (0.1 cfs / 5 acres) is 0.02 cfs / acre which is reasonable and consistent with Ecology and adjudication court awards for irrigation use. The domestic rate of 0.01 cfs (4.5 gpm) is reasonable, if not a bit low, compared typical rural home pump sizing (10 to 20 gpm). While actual pump capacity data for the original infrastructure is not available, the rates are reasonable and the Board concludes these remain appropriate for its tentative determination.

#### *Proposed project plans and specifications*

The changes proposed to this right include adding two points of diversions from Lake Chelan as shown on Figure 1 and described in the face sheet of this ROE, modifying the place of use consistent with BMWD water system planning, and adding a continuous municipal water supply purpose of use. The Board notes that although the proposal was to add 2 new points of diversion, the existing point of diversion for Lakeview is coincident with the current BMWD western point of diversion, so only the eastern BMWD point of diversion is being added. The proposed place of use is expected to be as shown on Figure 12, subject to future WSP approvals. BMWD is in the process of updating its water system plan to include components of systems it has absorbed. Until that plan, by operation of law under RCW 90.03.386 modifies the place of use, BMWD proposed the place of use for Certificate 4590 be amended consistent with the Lakeview Utilities Company Water System Plan as amended in 2006.

**Figure 12: Potential BMWD Service Area**



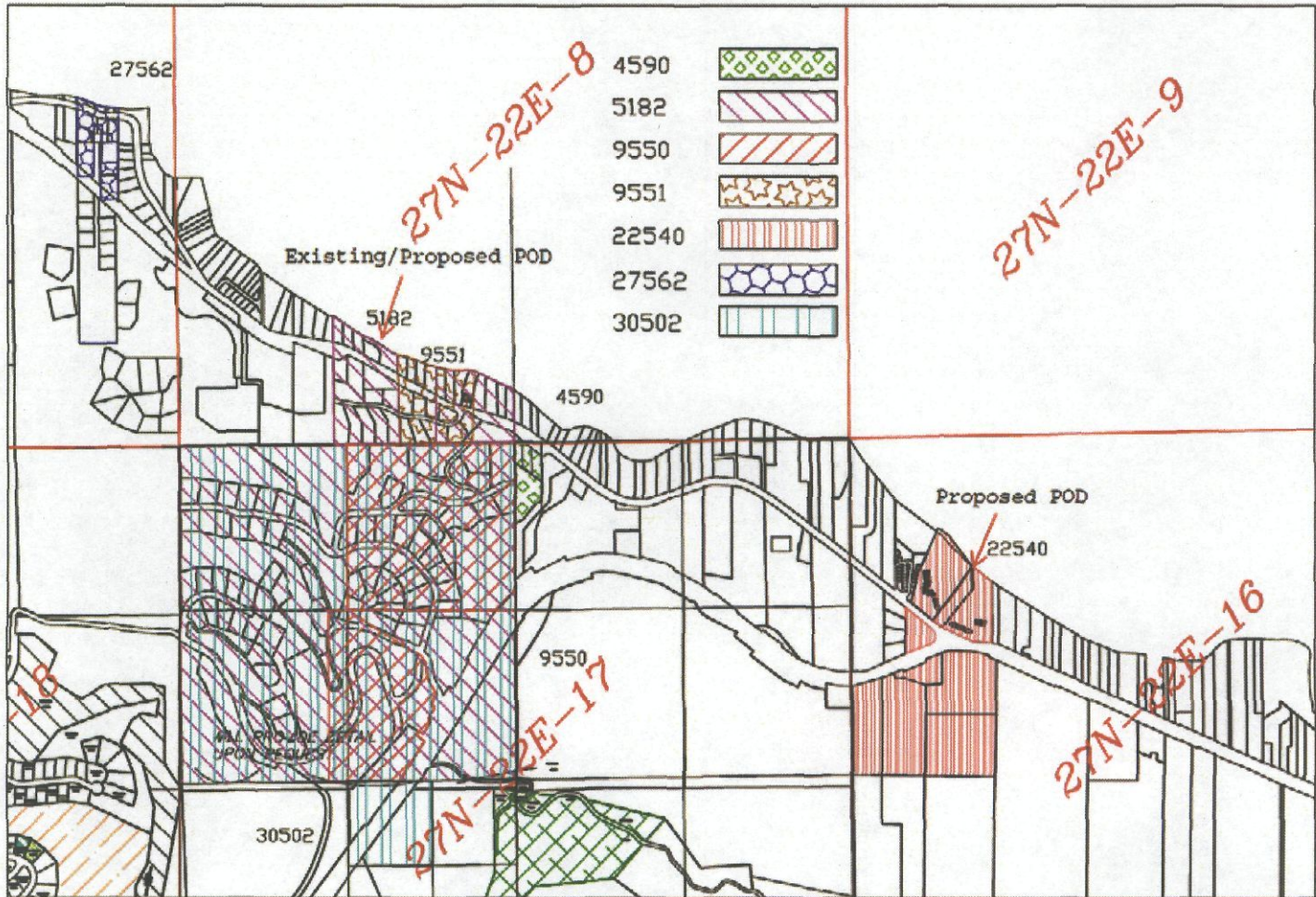


BMWD presented this application to the Board as one of eight water right changes relating to the northern portions of its service area known as the Lakeview service area. Said area, water system, places of use and points of diversion of the rights that are the subject of these change applications is depicted on Figure 13.

The proposed points are more specifically located from the SE corner of Section 8 T. 27 N., R. 22 E., Chelan County, as follows:

- 3725 feet West and 720 feet North at parcel number 272208705125
- 1150 feet South and 870 feet East at parcel number 272216220050

Figure 13: Summary of Other BMWD Water Rights



**BEAR MTN WATER DISTRICT  
WATER RIGHT PLACES OF USE**

*Municipal Water Supplier Compliance*

The changes to Certificate 9551 include a proposed addition of municipal water supply purpose of use for BMWD. The quantity transferred is expected to be sufficient to achieve active compliance (should Ecology or the Courts determine that such a standard is a requirement of law) under RCW 90.03.015(4)(a), residential service for 15 or more connections. For example, based on a tentative determination of 21 acre-feet, BMWD can serve approximately 21 connections at 1 ac-ft/house (900 gpd / large rural house) or more than twice that number if seasonal occupancy and small lawns are developed. Alternatively, because BMWD is a water district, one of the “special six” identified in RCW 90.03.015(4)(b), it may also perfect this right for governmental or governmental proprietary uses and be in compliance with the municipal water supply definition. As a water district with a large service area, BMWD will have a number of governmental and governmental proprietary purposes requiring water use, such as fire flow protection and irrigation of parks/open space and landscaping. Because the nature of what it means to be in compliance with the definition of municipal water supply purpose is still somewhat uncertain, BMWD will document compliance with the municipal water supplier definition at proof of appropriation.

The Reynolds “B” portion of this transfer will remain continuous domestic and seasonal irrigation purpose of use consistent with the original authorization for Certificate 9551.

*Development Schedule*

BMWD has numerous planning and infrastructure issues it needs to complete to develop this water right as proposed, including updating its water system plan, integrating infrastructure, and coordinating how it will manage its portfolio of water rights. BMWD has requested a development schedule through 2029 consistent



with its other transfers so they can be co-managed by both BMWD and Ecology. The Reynolds lot is undeveloped presently. In order to provide time for county permits to be obtained, financing for home construction, construction activities, and landscaping and amenities to be planted, the Board selected a 5 year development schedule.

#### *Annual Consumptive Quantity (ACQ)*

Under RCW 90.03.380(1), because the proposed changes include adding a purpose of use (municipal water supply and domestic), an ACQ analysis must be completed. That statute defines ACQ as:

*“ ‘Annual consumptive quantity’ means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right”.*

The first step in completing an ACQ test is defining the appropriate 5 year period to evaluate consumptive use. RCW 90.03.380(1) read in part:

*“If the water right has not been used during the previous five years but the nonuse of which qualifies for one or more of the statutory good causes or exceptions to relinquishment in RCW 90.14.140 and 90.44.520, the period of nonuse is not included in the most recent five-year period of continuous beneficial use for purposes of determining the annual consumptive quantity of water under this section.”*

The Board determined in its tentative determination that nonuse from 2005 to present was excused by a DFD timely fixed in 2008, which is one of the exemptions provided in RCW 90.14.140. The period of nonuse from 2005 to present is not included in the ACQ calculation. Therefore, the most recent five-year period of continuous beneficial use would be 2000-2004.

From 2000-2004, the Board concluded that use consisted of 5 acres of orchard irrigation plus domestic use, totaling 21 acre-feet. So although, the statute requires an averaging of the two highest years, in this case the use is the same and would be represented by the consumptive use in the year selected for the tentative determination, or 2003.

Based on the methodology in GUID 1210, consumptive use can be estimated by the consumptive use percentage (in this case equal to 71% application efficiency plus 10% from %Evap = 81%) times the total use.

For the irrigation portion, this results in a consumptive use of: 20 acre-feet x (81%) = 16.2 acre-feet.

The domestic portion is more subjective, because it is affected by how many people lived in the house during that time, how much lawn was irrigated, the type of irrigation, what type of sanitary treatment disposal system was present, and other factors. The Board found a total use of 1 acre-feet in 2003. In-door domestic use is largely non-consumptive. For example, in the Upper Kittitas Rule (WAC 173-539A-050), Ecology estimates that for septic systems, average consumptive use is 30%, with 70% returned to the system. In the Skagit basin (WAC 173-503-073(7)(c)), Ecology determined that 50% of septic tank disposal is consumed and 50% returned to the system. Ecology's rule in the Skagit basin has been upheld by Thurston County Superior Court in the case *Swinomish Indian Tribal Community v. State Ecology (Cause No. 08-2-01403-4, November 2010)*. The Court held:

*“The Tribe asserts that Ecology's decision to award such credit is inconsistent with the board decision of *Manke Lumber Co. v. Dep't of Ecology*, 1996 WL656039 (Nov. 1, 1996), and others. However, Ecology is not precluded from providing the credit by any statutory or case law cited by the Tribe, and Ecology's determination of a 50 percent mitigation credit is not arbitrary and capricious. RA002999, RA022748, RA043066-67. This is true even if it represents a change in position.”*

Consumptive use for lawn will generally be the opposite of that for indoor use; for example, here we would expect consumption similar to that for orchard, or 81%. Proportionately, outdoor use is much greater than indoor use, often comprising 75% of the total household use, particularly during the summer time when consumption is highest.

Given the lack of actual data, and considering all the site specific factors here, the Board concludes that a reasonable consumptive use for the domestic portion of the water right is 0.5 acre-foot. Therefore, the ACQ is 16.7 acre-feet and the return flow associated with the 21 acre-foot tentative determination is 4.3 acre-feet.

The final evaluation of the ACQ test under RCW 90.03.380(1) is the Board must find that the *“change results in no increase in the annual consumptive quantity of water used under the water right”*. In this case, the Board is satisfied that the proposed use by BMWD will be less consumptive than historic use. The majority of water historically used under the right was orchard with cover crop, a much more consumptive practice than the proposed municipal use, which will include houses, lawn, and low-water landscape amenities. Consumptive



use will likely drop by at least 25% because of these land use changes, a pattern well-documented in many previous transfers processed by this Board. As for the Reynolds portion, consumptive use is expected to be the same as historic. Essentially, this amounts to relocating one house worth of consumptive use water from one parcel to another with no expected change that would result in an increase. For ease in administration, the entire quantity allocated to Reynolds (0.5 acre-feet) will be identified as consumptive use in the provisions section.

**The information or conclusions in this section were authored and/or developed by Dan Haller, Mark Peterson, Don Phelps, Waialele Hampton, and Karin Whitehall.**

*Previous Change Decisions Associated With This Water Right*

There have been no changes to the subject water right.

*Other water rights appurtenant to the property (if applicable)*

BMWD manages a portfolio of several other water rights that will overlap the proposed place of use for Certificate 9551. Since the right was acquired by BMWD and subsequent to this change it will be administrated with the other rights of BMWD. The following narrative and Table 2 describe the BMWD systems, its portfolio of water rights (many of which are undergoing or have recently undergone transfers), and their interrelationships.

BMWD has an upper system that depends on a well which is the authorized source of Ground Water Certificate 30959, which is not additive to the annual quantities in Surface Water Certificate 30541 and therefore must be deducted from the annual quantities in Surface Water Certificate 30541 to the extent it is utilized from the well. This upper system is not currently connected with the lower system, but may be intertied at some point in the future.

The lower system is sourced from two authorized points of diversion. Only the westerly point of diversion has been developed for BMWD purposes so far. The easterly diversion is proposed to accommodate future growth and is the authorized point of diversion historically for Surface Water Certificates 30541 and 30277; more recently the eastern diversion has been added via Ecology change decisions to Certificate 5182, 9550, 4590, and 22540. The westerly point is now the authorized point of diversion for Surface Water Rights 30501, 30502, 4590, 22540, 9550, 9551, and 120592 which are all owned by BMWD and are all additive in instant and annual quantities. The current point of diversion for Certificate 9551 is the western point of diversion for BMWD, is being retained, and will be integrated into the lower system. BMWD will administrate additive instantaneous and annual quantities within its service area under certificates numbered 27562, 22540 and 148 which are proposed to be sourced from the two proposed points of diversion discussed above in addition to retaining their original diversion points for non-potable purposes.

**Table 2: Table of water rights owned or administrated by the Bear Mountain Water District:**

<u>Diversion/Withdrawal Points</u>	<u>Total gallons per minute</u>	<u>Total acre feet per year</u>
A= Westerly Diversion	1434.5	790.5
B= Easterly Diversion	2735.5	1643.3 (less amounts diverted at A, C, D, E, F, G)
C= BMWD well	192.6	109.3
D= 120592 original diversion	157	46
E= 146 original diversion	108	46.8
F= 27562 original diversion	170	17.1
G=22540 original diversion	54	66.5

<u>Water Right</u>	<u>Qi (gpm)</u>	<u>Qa (acre feet)</u>	<u>Points of Diversion /Withdrawal Authorized</u>
5182	341	272.5	A,B
30501	148	140	A,B
30502	193	67.4	A,B
9551	49	22	A,B
9550	197	104	A,B
4590	17.5	8.2	A,B
120592	157	46	A,B, D
27562	170	17.1	A,B, F
22540	54	66.5	A,B, G
148	108	46.8	A,B, E
30541	507	214.3	B
30277	794	638.5	B
30959	192.6	109.3	C



To prevent the authorized instantaneous demand rates of these rights from being exceeded at any time the installed capacity of the diversion/withdrawal points must be no greater than the total authorized from each point and the points must be administrated such that any combined demand does not exceed the combined total authorization. For all of the rights related to the easterly diversion point this means that after confirming the quantities diverted at all other points is within their respective authorizations, these quantities are totaled and then subtracted from the easterly diversion total to determine the remaining authorization at that point. Alternatively, as BMWD upgrades and interties its systems over the next 20 years, it can use automated flow control valves and telemetry to ensure that water right instantaneous limits are not exceeded.

In addition to the BMWD overlapping water rights, the Board investigated Ecology's webmap to determine whether other water rights overlap the existing Certificate 9551 place of use. Two unrelated claims and certificates were found, which is included in the narrative below.

- Claim S4-130130CL is a short-form claim filed with a priority date of June 25, 1983 by Gisela Fuller for domestic use. Although the claim is not mapped with specificity in the State Webmap, Exhibit A of the claim identifies the place of use as within the E ½ of Lot K of Minneapolis Beach. The Board therefore concludes that although the State Webmap shows an overlap with Certificate 9551, historically the beneficial uses (if the claim is valid) do not intersect. Certificate 9551 covered the W ½ of Lot K. The claim resides within the proposed place of use, but is not owned by BMWD and will be managed separately.
- Application S4-32382 is an application for heat cooling of crops by Lakeview Orchards that includes the Certificate 4590 place of use. On March 22, 2012, applicant Doug Wilcox of BMWD reviewed this application and determined that it no longer represented a viable project for BMWD. Effective with Ecology's approval of this change authorization, Application S4-32382 is voluntarily withdrawn.

Finally, as in the case of any large municipal water supplier, there are number other claims and rights within its service area. Other than those that are listed that BMWD owns and purveys, these other rights and claims are unrelated to Certificate 4590.

#### *Public Interest*

The proposed transfer is made solely under the authority of RCW 90.03.380, so considerations of the public interest are not applicable.

#### *Geologic, Hydrogeologic, or other scientific investigations (if applicable)*

This transfer does not involve groundwater and therefore no geologic or hydrogeologic investigations were completed by the Board.

#### *Impairment*

The Board evaluated whether this transfer would impair existing water rights. One new diversion point is being added. Surface water is readily available at the existing and proposed diversions. Adjacent diverters can also receive their full supply of water uninterrupted as a result of this transfer. The place of use is increased consistent BMWD's service area and regional planning. As in the case of similar transfers recently approved for BMWD, the Board did not determine any potential injury associated with the place of use transfer. Such transfers are permissible as an operation of law associated with water system planning under RCW 90.03.386, and when BMWD's plan is updated, the place of use will adjust accordingly.

Similarly no impairment was determined associated with adding the purpose of use. In this case a consumptive analysis was required (ACQ) and the board is satisfied that consumptive use will decrease as a result of the transition in land use.

Water is available from Lake Chelan pursuant to an agreement with Chelan PUD as described in Ecology's *Focus on Water Availability for WRIA 47*. Lake Chelan does not have an adopted instream flow, but is rather regulated according to FERC license requirements for releases from Lake Chelan. This administrative framework reduces the risk of impairment.

**The information or conclusions in this section were authored and/or developed by Dan Haller, Mark Peterson, Don Phelps, Karin Whitehall, and Waikele Hampton.**



CONCLUSIONS [See WAC 173-153-130(6)(d)]

Tentative determination (validity and extent of the right)

The Board finds Certificate 9551 is valid based on the quantities described on Page 1.

Relinquishment or abandonment concerns

No relinquishment or abandonment has occurred. Partial non-use is excused.

Consideration of comments and protests and SEPA

No comments or protests were received. SEPA was appropriately complied with.

Impairment

The Board found no impairment to existing water rights would occur as a result of this change.

Public Interest

The public interest test does not apply.

DECISION [See WAC 173-153-130(6)(e)]

The following table summarizes the transfer of Certificate 9551 for Bear Mountain Water District with a priority date of June 9, 1965.

MAXIMUM CUB FT/ SECOND 0.0877 (BMWD) 0.0223 (Reynolds)	MAXIMUM GAL/MINUTE 39.37 (BMWD) 10 gpm (Reynolds)	MAXIMUM ACRE-FT/YR 21.5 (BMWD) 0.5 (Tom & Karin Reynolds)			TYPE OF USE, PERIOD OF USE Continuous Municipal Supply Continuous Domestic Supply and Irrigation			
Note: The annual consumptive quantity (ACQ) under the BMWD portion of the right shall not exceed 16.2 acre-feet. Note: The annual consumptive quantity (ACQ) under the Reynolds portion of the right shall not exceed 0.5 acre-feet.								
SOURCE Lake Chelan					TRIBUTARY OF (IF SURFACE WATER) Chelan River			
AT POINTS LOCATED: PARCEL NO.		¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
272208705125 (1: BMWD)		SE	SW	8	27	22 E.	47	Chelan
272216220050 (1: BMWD)		NW	NW	16	27	22 E.		
292128320155 (2: Reynolds) 2160 feet north of SW corner of Section 28		NW	SW	28	29	21 E.		
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD								
(1) BMWD: The place of use shall be the service area of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006, so long as the water right holder is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of expanding the place of use of this water right. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, then the place of use of this water right reverts to the service area described in that document.  The place of use for the BMWD portion of this water right is expected to conform to any subsequently approved Bear Mountain Water District Water System Plan. Until such approval is obtained, the place of use of this water right shall be confined to the existing approved plan of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006.								
(2) Reynolds: Parcel 292128320155 in the NW ¼ of the SW ¼ of Section 28, and the NE ¼ of the SE ¼ of Section 29, T. 29 N., R. 21 E.W.M., described more specifically as follows:  “Lot 2, Certificate of Exemption 2005-018 filed under Auditor’s File Number 2203177, Chelan, County, Washington. Except therefrom that portion of said lot 2 lying Easterly of the following described line A; Beginning at a brass cap W.P.M.C., said point being on the West line of said section, thence South 72 29’ 35” East a distance of 112.27 feet to the True Point of Beginning for said described Line A; thence South 11 05’ 23” West a distance of 135.24 feet, more or less, to the Northerly right of way for C.R.P. 480, said road being known as South Lake Shore Road, said point being the end of described line A. Line A shall extend northerly to the line of the high water mark.”								
PARCEL NO. Multiple (BMWD) 292128320155 (Reynolds)		¼	¼	SECTION 7,8,16,17 28, 29	TOWNSHIP N. 27 29	RANGE, 22 E 21 E		

The information or conclusions in this section were authored and/or developed by Dan Haller, Mark Peterson, Don Phelps, and Waikele Hampton.

PROVISIONS [See WAC 173-153-130(6)(f)]

The following provisions are to be included as a part the Board’s decision:

1. This authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.



- 2. Upon satisfaction of the development schedule listed on the Department of Ecology’s Final Order of CHEL-08-12, notification thereof to the Department of Ecology and fulfillment of all requirement of law, a superseding certificate shall be issued to each applicant by the Department of Ecology.
- 3. The place of use for the BMWD portion of this water right is expected to conform to any subsequently approved Bear Mountain Water District Water System Plan. Until such approval is obtained, the place of use of this water right shall be confined to the existing approved plan of the 2005 Lakeview Utilities Company Water System Plan as amended in 2006.
- 4. An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC.
- 5. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.
- 6. Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".
- 7. Water use data shall be recorded weekly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of each calendar year. Reported water use data shall be submitted via the Internet or by using forms available at the Central Regional Office of the Department of Ecology in Yakima. To set up an Internet reporting account, access <https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/>. If you have questions or need forms, contact the Central Regional office.
- 8. This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and game fish screening criteria (pursuant to RCW 77.55.040).
- 9. The subject right will be exercised in conjunction with other rights from the same points of diversion set forth above. To prevent the authorized diversion rates of these rights from being exceeded at any time, BMWD shall provide evidence of sufficient capacity controls or system telemetry at time of Proof of Appropriation.
- 10. BMWD will document compliance with the municipal water supplier purpose of use at time of Proof of Appropriation if active compliance with the definitions in RCW 90.03.015(4) is required by law.
- 11. Note: The annual consumptive quantity (ACQ) under the BMWD portion of the right shall not exceed 16.2 acre-feet.
- 12. Note: The annual consumptive quantity (ACQ) under the Reynolds portion of the right shall not exceed 0.5 acre-feet.
- 13. Effective with Ecology’s approval of this change authorization, Application S4-32382 is voluntarily withdrawn.

Construction Schedule

DEVELOPMENT SCHEDULE (BMWD)		
BEGIN PROJECT BY THIS DATE: Begun	COMPLETE PROJECT BY THIS DATE: 12/01/2024	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: 12/31/2029
DEVELOPMENT SCHEDULE (Reynolds)		
BEGIN PROJECT BY THIS DATE: December 31, 2015	COMPLETE PROJECT BY THIS DATE: December 31, 2016	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: December 31, 2017

The information or conclusions in this section were authored and/or developed by Dan Haller, Mark Peterson, Don Phelps, Karin Whitehall, and Waikele Hampton.

The undersigned board commissioner certifies that he/she understands the board is responsible “to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination.” [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report’s conclusions.

Signed at Wenatchee, Washington  
This 10 day of May, 2012



Don Phelps, Board Representative  
Chelan Water Conservancy Board

- Appendix:
- A. Change Application File
  - B. Ecology File for Certificate 9551
  - C. Water Right Deed
  - D. Notices
  - E. SEPA
  - F. Doug Wilcox Declaration